

# Exhibit A

**ZELMANOVITZ & ASSOCIATES PLLC**  
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**Attorneys for Fink & Zelmanovitz, P.C., as nominee**

**UNITED STATES BANKRUPTCY COURT**  
**FOR THE EASTERN DISTRICT OF NEW YORK**

In re:

PEGGY SHULER,

Debtor.

Case No. 14-41228 (CEC)

Chapter 13

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**RELIEF FROM STAY – REAL ESTATE AND  
COOPERATIVE APARTMENTS**

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**BACKGROUND INFORMATION**

1. ADDRESS OF REAL PROPERTY OR COOPERATIVE APARTMENT: 101 Rogers Avenue,  
Brooklyn, NY 11216
2. LENDER NAME: Fink & Zelmanovitz, P.C., as nominee
3. MORTGAGE DATE: October 31, 2006
4. POST-PETITION PAYMENT ADDRESS: Fink & Zelmanovitz, P.C., as nominee,  
3839 Flatlands Avenue, Suite 206, Brooklyn, NY 11234

**DEBT AND VALUE REPRESENTATIONS**

5. TOTAL PRE-PETITION AND POST-PETITION INDEBTEDNESS OF DEBTOR(S) TO MOVANT AS OF THE MOTION FILING DATE: \$1,133,535.20  
(THIS MAY NOT BE RELIED UPON AS A "PAYOFF" QUOTATION.)
6. MOVANT'S ESTIMATED MARKET VALUE OF THE REAL PROPERTY OR COOPERATIVE APARTMENT AS OF THE MOTION FILING DATE: \$ 800,000.
7. SOURCE OF ESTIMATED MARKET VALUE: New York Appraisal Associates

**STATUS OF THE DEBT AS OF THE PETITION DATE**8. DEBTOR(S)'S INDEBTEDNESS TO MOVANT AS OF THE PETITION DATE:<sup>1</sup>

A.	TOTAL:	\$	<u>1,123,817.17</u>
B.	PRINCIPAL:	\$	<u>1,005,679.42<sup>2</sup></u>
C.	INTEREST:	\$	<u>94,699.33<sup>3</sup></u>
D.	ESCROW (TAXES AND INSURANCE):	\$	<u>-0-</u>
E.	FORCED PLACED INSURANCE EXPENDED BY MOVANT:	\$	<u>-0-</u>
F.	PRE-PETITION ATTORNEYS' FEES CHARGED TO DEBTOR(S):	\$	<u>21,303.98<sup>4</sup></u>
G.	PRE-PETITION LATE FEES CHARGED TO DEBTOR(S):	\$	<u>-0-</u>

9. CONTRACT INTEREST RATE: See the attached Exhibit A-1

*(IF THE INTEREST RATE HAS CHANGED, LIST THE RATE(S) AND DATE(S) THAT EACH RATE WAS IN EFFECT ON A SEPARATE SHEET AND ATTACH THE SHEET AS AN EXHIBIT TO THIS FORM. STATE THE EXHIBIT NUMBER HERE: A-1.)*

<sup>1</sup> The information set forth in this ¶8 is derived from the Order Granting Final Judgment of Foreclosure and Sale of 101 Rogers Avenue, Brooklyn, New York of the Supreme Court of the State of New York, County of Kings, dated July 29, 2013 and entered on August 5, 2013 (the "Judgment of Foreclosure"), a copy of which is annexed to the motion as Exhibit I, supplemented with the legal, appraisal and court filing fees incurred in connection with the Debtor's prior bankruptcy case.

<sup>2</sup> Attached as Exhibit Q to the motion is a copy of Schedule B to the Referee's Report of Amount Due dated April 29, 2013, which was approved pursuant to the Judgment of Foreclosure, and which set forth an itemization of this amount.

<sup>3</sup> In accordance with the Judgment of Foreclosure, this sum represents interest at the contractual default rate of 24% per annum from April 25, 2013 to the date of entry of the Judgment of Foreclosure, August 5, 2013, and at the statutory rate of 9% per annum thereafter until the petition date, March 19, 2014.

<sup>4</sup> This amount includes the pre-petition attorneys' fees awarded in the Judgment of Foreclosure together with the attorneys' and court filing fees incurred in connection with the Debtor's prior bankruptcy case.

10. OTHER PRE-PETITION FEES, CHARGES OR AMOUNTS CHARGED TO DEBTOR(S)'S ACCOUNT AND NOT LISTED ABOVE: \$334.44 in costs and disbursements awarded pursuant to the Judgment of Foreclosure and \$1,800.00 in appraisal fees incurred in connection with the Debtor's prior bankruptcy case

(If ADDITIONAL SPACE IS REQUIRED, LIST THE AMOUNT(S) ON A SEPARATE SHEET AND ATTACH THE SHEET AS AN EXHIBIT TO THIS FORM. STATE THE EXHIBIT NUMBER HERE: \_\_\_\_.)

**AMOUNT OF POST-PETITION DEFAULT AS OF THE MOTION FILING DATE**

11. DATE OF RECEIPT OF LAST PAYMENT: Prior to date of default of April 1, 2009

12. NUMBER OF PAYMENTS DUE FROM PETITION DATE TO MOTION FILING DATE: N/A PAYMENTS.<sup>5</sup>

13. POST-PETITION PAYMENTS IN DEFAULT: N/A

PAYMENT DUE DATE	AMOUNT DUE	AMOUNT RECEIVED	AMOUNT APPLIED TO PRINCIPAL	AMOUNT APPLIED TO INTEREST	AMOUNT APPLIED TO ESCROW	LATE FEE CHARGED
TOTAL:	\$	\$	\$	\$	\$	\$

14. OTHER POST-PETITION FEES CHARGED TO DEBTOR(S):

A.	TOTAL:	\$	<u>9,718.03</u>
B.	ATTORNEYS' FEES IN CONNECTION WITH THIS MOTION:	\$	<u>8,000.00</u>
C.	FILING FEE IN CONNECTION WITH THIS MOTION:	\$	<u>176.00</u>
D.	OTHER POST-PETITION ATTORNEYS' FEES:	\$	<u>-0-</u>
E.	POST-PETITION INSPECTION FEES:	\$	<u>-0-</u>
F.	POST-PETITION APPRAISAL/BROKER'S PRICE OPINION FEES:	\$	<u>-0-</u>
G.	FORCED PLACED INSURANCE EXPENDED BY MOVANT:	\$	<u>-0-</u>

<sup>5</sup> As of the petition date, the total amount set forth in ¶ 8 herein was due pursuant to the Judgment of Foreclosure.

15. AMOUNT HELD IN SUSPENSE BY MOVANT: \$ -0-

16. OTHER POST-PETITION FEES, CHARGES OR AMOUNTS CHARGED TO DEBTOR(S)'S ACCOUNT AND NOT LISTED ABOVE: \$1,542.03 of post-petition interest at the statutory rate of 9% per annum through the date of the motion

*(IF ADDITIONAL SPACE IS REQUIRED, LIST THE AMOUNT(S) ON A SEPARATE SHEET AND ATTACH THE SHEET AS AN EXHIBIT TO THIS FORM. STATE THE EXHIBIT NUMBER HERE: \_\_\_\_.)*

## **REQUIRED ATTACHMENTS TO MOTION**

PLEASE ATTACH THE FOLLOWING DOCUMENTS TO THIS MOTION AND INDICATE THE EXHIBIT NUMBER ASSOCIATED WITH EACH DOCUMENT.

- (1) COPIES OF DOCUMENTS THAT ESTABLISH MOVANT'S INTEREST IN THE SUBJECT PROPERTY. FOR PURPOSES OF EXAMPLE ONLY, THIS MAY BE A COMPLETE AND LEGIBLE COPY OF THE PROMISSORY NOTE OR OTHER DEBT INSTRUMENT TOGETHER WITH A COMPLETE AND LEGIBLE COPY OF THE MORTGAGE AND ANY ASSIGNMENTS IN THE CHAIN FROM THE ORIGINAL MORTGAGEE TO THE CURRENT MOVING PARTY.

- Exhibit B: Amended and Restated Note dated October 31, 2006;
- Exhibit C: Recorded Agreement of Consolidation, Extension and Modification of Mortgage dated October 31, 2006;
- Exhibit D: Recorded Assignment of Leases and Rents dated October 31, 2006;
- Exhibit E: Bill of Sale and Assignment of Loan Documents dated March 19, 2013;
- Exhibit F: Allonge to Note endorsed in blank;
- Exhibit G: Recorded Assignment of Mortgage dated March 19, 2013; and
- Exhibit H: Recorded Assignment of Assignment of Leases and Rents dated March 19, 2013.

- (2) COPIES OF DOCUMENTS THAT ESTABLISH MOVANT'S STANDING TO BRING THIS MOTION.

Exhibits B – H as listed above; and

- Exhibit I: Order Granting Final Judgment of Foreclosure and Sale of 101 Rogers Avenue, Brooklyn, New York entered on August 5, 2013.

- (3) COPIES OF DOCUMENTS THAT ESTABLISH THAT MOVANT'S INTEREST IN THE REAL PROPERTY OR COOPERATIVE APARTMENT WAS PERFECTED. FOR THE PURPOSES OF EXAMPLE ONLY, THIS MAY BE A COMPLETE AND LEGIBLE COPY OF THE FINANCING STATEMENT (UCC-1) FILED WITH THE CLERK'S OFFICE OR THE REGISTER OF THE COUNTY IN WHICH THE PROPERTY OR COOPERATIVE APARTMENT IS LOCATED.

Exhibits C, D, G and H as listed above.

### **DECLARATION AS TO BUSINESS RECORDS**

I, JUDAH A. ZELMANOVITZ, A MEMBER OF FINK & ZELMANOVITZ, P.C., AS NOMINEE, THE MOVANT HEREIN, DECLARE PURSUANT TO 28 U.S.C. SECTION 1746 UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IN THIS FORM AND ANY EXHIBITS ATTACHED HERETO (OTHER THAN THE TRANSACTIONAL DOCUMENTS ATTACHED AS REQUIRED BY PARAGRAPHS 1, 2, AND 3, ABOVE) IS DERIVED FROM RECORDS THAT WERE MADE AT OR NEAR THE TIME OF THE OCCURRENCE OF THE MATTERS SET FORTH BY, OR FROM INFORMATION TRANSMITTED BY, A PERSON WITH KNOWLEDGE OF THOSE MATTERS; THAT THE RECORDS WERE KEPT IN THE COURSE OF THE REGULARLY CONDUCTED ACTIVITY; AND THAT THE RECORDS WERE MADE IN THE COURSE OF THE REGULARLY CONDUCTED ACTIVITY AS A REGULAR PRACTICE.

I FURTHER DECLARE THAT COPIES OF ANY TRANSACTIONAL DOCUMENTS ATTACHED TO THIS FORM AS REQUIRED BY PARAGRAPHS 1, 2, AND 3, ABOVE, ARE TRUE AND CORRECT COPIES OF THE ORIGINAL DOCUMENTS.

EXECUTED AT BROOKLYN, NEW YORK  
ON THIS 25TH DAY OF MARCH, 2014

/s/ Judah A. Zelmanovitz  
Judah A. Zelmanovitz  
Member  
Fink & Zelmanovitz, P.C.  
3839 Flatlands Avenue, Suite 206  
Brooklyn, New York 11234

### **DECLARATION**

I, JUDAH A. ZELMANOVITZ, A MEMBER OF FINK & ZELMANOVITZ, P.C., AS NOMINEE, THE MOVANT HEREIN, DECLARE PURSUANT TO 28 U.S.C. SECTION 1746 UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT BASED ON PERSONAL KNOWLEDGE OF THE MOVANT'S BOOKS AND BUSINESS RECORDS.

EXECUTED AT BROOKLYN, NEW YORK  
ON THIS 25TH DAY OF MARCH, 2014

/s/ Judah A. Zelmanovitz  
Judah A. Zelmanovitz  
Member  
Fink & Zelmanovitz, P.C.  
3839 Flatlands Avenue, Suite 206  
Brooklyn, New York 11234

## **EXHIBIT A-1**

### **Interest Rates**

Prior to Default:	7.5% pursuant to the contract
After default on April 1, 2006:	24% pursuant to the contract
After entry of Judgment of Foreclosure on August 5, 2013:	9% pursuant to statute